

CHARLES J. McKEE, SBN 152458  
County Counsel  
MICHAEL R. PHILIPPI, SBN 120967  
Deputy County Counsel  
County of Monterey  
168 West Alisal Street, Third Floor  
Salinas, California 93901-2653  
Telephone: (831) 755-5045  
Facsimile: (831) 755-5283  
[philippimr@co.monterey.ca.us](mailto:philippimr@co.monterey.ca.us)

Attorneys for Defendants COUNTY OF MONTEREY  
SHERIFF'S OFFICE, IVAN RODRIGUEZ and DAVID  
MURRAY

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
San Jose Division

NICOLAS AQUINO,

Plaintiff,

vs.

COUNTY OF MONTEREY SHERIFF'S  
DEPARTMENT; IVAN RODRIGUEZ, an  
individual; DAVID MURRAY, an individual; and  
DOES 1 through 25, inclusive,

Defendants.

CASE NO. 14-CV-03387 EJD

**STIPULATION TO CONTINUE  
TRIAL DATE AND MODIFY THE  
SCHEDULING ORDER**

Trial Date: June 28, 2016

The Court previously issued a Pre-Trial order on September 3, 2015 setting this case for trial starting June 28, 2016 and setting dates for the close of discovery and expert witness discovery, along with other pre-trial deadlines [ECF Docket 32].

The parties now stipulate as follows:

1. The parties have diligently engaged in discovery in this case, having deposed all of the known available fact witnesses and having propounded written discovery to each side.

2. There currently exists a discovery dispute which the parties are actively trying to resolve through meet and confer conferences in order to allow each side to properly prepare for trial.

3. As a result of the claims being made by Plaintiff and the defenses being raised by Defendants, and a review of some partial records from the Plaintiff's military personnel file, the complete military personnel file and medical records of Plaintiff have become critical for each side to review.

4. Defendants subpoenaed the United States Air Force to obtain those records in October 2015.

5. The USAF requested releases be provided by Plaintiff before complying with the subpoena.

6. Plaintiff executed the necessary releases and provided the necessary releases to Defendants' counsel in October 2015, who promptly forwarded those releases to the USAF.

7. Defendants' counsel has been in contact with Randall Russel of the U.S. Navy and Captain Stella Phillips of the USAF to attempt to obtain the necessary documents.

8. Plaintiff's counsel was contacted by Captain Stella Phillips on March 24, 2016 and once again authorized the release of Plaintiff's records to Defendants' counsel.

9. Defendants' counsel received an email from Captain Stella Phillips on March 24, 2016 stating she hoped to be able to produce the subpoenaed records soon.

10. Expert discovery is currently set to close on May 20, 2016. The parties will need time to review the military records once they are produced and provide those records to their respective experts in order to allow the experts to finalize their opinions. The parties wish to avoid the time and cost associated with having to take multiple depositions of each expert.

11. The parties need to be able to review the military records prior to preparation of motions *in limine*, exhibit lists, jury instructions and voir dire questions.

12. The parties request the Court modify the scheduling Order as follows:

a. Expert Discovery Cutoff October 28, 2016

b. ~~Final Pretrial Conference~~ December 15, 2016

- c. ~~Joint Final Pretrial Conference Statement~~ ~~December 1, 2016~~
- d. ~~Motions *in limine* and exchange of exhibits~~ ~~December 1, 2016~~
- e. ~~Voir Dire, Jury Instructions and Verdict forms~~ ~~December 8, 2016~~
- f. ~~Trial~~ ~~Sometime in Mid-January 2017~~

12. The parties have not previously asked for any continuance in this matter and have been diligent in their trial preparations.

13. The parties contend the foregoing constitutes good cause to continue the trial date in this matter and modify the scheduling Order as previously set forth.

WHEREFORE, the parties respectfully request the Court issue an Order modifying the previous scheduling Order as set forth herein.

Dated: April 4, 2016

CHARLES J. McKEE  
County Counsel

By /s/ Michael R. Philippi  
MICHAEL R. PHILIPPI, Deputy County Counsel  
Attorneys for Defendants COUNTY OF MONTEREY  
SHERIFF'S OFFICE, IVAN RODRIGUEZ and  
DAVID MURRAY

Dated: April 4, 2016

PATANE GUMBERG AVILA LLP

By /s/ Nina M. Patane  
NINA M. PATANE  
Attorneys for Plaintiff NICOLAS AQUINO

Pursuant to Northern District General Order 45(X)(B), I hereby attest that I have on file approvals for any signatures indicated by a "conformed" signature (/s/) within this efiled document

DATED: April 4, 2016

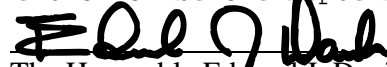
By /s/ Michael R. Philippi  
MICHAEL R. PHILIPPI, Deputy County Counsel  
Attorneys for Defendants COUNTY OF MONTEREY  
SHERIFF'S OFFICE, IVAN RODRIGUEZ and  
DAVID MURRAY

**~~PROPOSED~~ ORDER**

The parties have stipulated that the scheduling Order of this court issued on September 3, 2015 be modified to allow the USAF to provide copies of Plaintiff's military personnel file and medical file to the parties in sufficient time to properly prepare for trial, as set forth in the above stipulation.

**PURSUANT TO STIPULATION, IT IS SO ORDERED.**

The pretrial and trial dates and deadlines set pursuant to the Order filed on September 3, 2015 (Dkt. No. 32) are VACATED. The court schedules a Trial Setting Conference for 11:00 a.m. on September 15, 2016. The parties shall file an updated Joint Trial Setting Conference Statement on or before September 5, 2016.

  
The Honorable Edward J. Davila  
United States District Court Judge